

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Miskovski	Team: Squad #14	CCRB Case #: 202003867	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/22/2020 7:35 PM, Friday, 05/22/2020 7:50 PM	Location of Incident: In front of § 87(2)(b) En route to the PSA 7 stationhouse	Precinct: 40	18 Mo. SOL 11/22/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 05/22/2020 7:49 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/03/2020 11:30 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Brian Greaige	13811	960616	032 DET
2. LT Eric Dym	00000	933762	PSA 7
3. POM Christophe Boyce	05100	960272	PSA 7
4. POM Shawn Moynihan	03202	953147	PSA 7
5. POM Sebastian Bernard	03031	960244	PSA 7
6. POM Forrester Johnson	16943	964078	PSA 7
7. SGT Wilmer Marquez	03687	954099	PSA 7
8. POM Kelvis Rodriguez	17696	964252	PSA 7
9. POM Joseph Canale	10524	960317	PSA 7
10. POM John Joyce	05953	961846	PSA 7
11. An officer			PSA 7
12. SGT Tiffany Batista	01439	926552	PBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Enders Calvo	04685	956479	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A. PO Brian Greaige	Force: At § 87(2)(b) in the Bronx, Police Officer Brian Greaige used physical force against § 87(2)(b)	§ 87(2)(b)
B. PO Brian Greaige	Force: At § 87(2)(b) in the Bronx, Police Officer Brian Greaige used physical force against § 87(2)(b)	§ 87(2)(b)
C. PO Brian Greaige	Force: At § 87(2)(b) in the Bronx, Police Officer Brian Greaige used physical force against § 87(2)(b)	§ 87(2)(b)
D. POM Christophe Boyce	Force: At § 87(2)(b) in the Bronx, Police Officer Christophe Boyce used physical force against § 87(2)(b)	§ 87(2)(b)
E. POM Shawn Moynihan	Force: At § 87(2)(b) in the Bronx, Police Officer Shawn Moynihan used physical force against § 87(2)(b)	§ 87(2)(b)
F. POM Sebastian Bernard	Force: At § 87(2)(b) in the Bronx, Police Officer Sebastian Bernard used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
G. An officer	Force: At § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b)	
H. An officer	Force: At § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b)	
I.POM Kelvis Rodriguez	Abuse: At § 87(2)(b) in the Bronx, Police Officer Kelvis Rodriguez threatened to issue summons to an individual.	
J.PO Brian Greage	Discourtesy: En route to the PSA 7 stationhouse, Police Officer Brian Greage spoke discourteously to an individual.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
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§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On May 22, 2020, an unidentified caller filed this complaint via phone with IAB regarding an incident involving § 87(2)(b). On June 3, 2020, the CCRB received this complaint from IAB.

On May 22, 2020, at approximately 7:35 p.m., § 87(2)(b) was walking east of the intersection of Alexander Avenue and East 137th Street in the Bronx, on East 137th Street. § 87(2)(b) approached PO Brian Greaige of PSA 7, who stood between § 87(2)(b) and a simultaneous incident involving multiple other officers of PSA 7, including Lieutenant Eric Dym, SGT Wilmer Maruquez, SGT Tiffany Batista, PO John Joyce, PO Brian Moynihan, PO Cristopher Boyce, PO Sebastian Bernard, PO Joseph Canale, PO Forrester Johnson, and PO Kelvis Rodriguez. PO Greaige asked § 87(2)(b) where he was going, and then pushed § 87(2)(b) backwards when § 87(2)(b) did not verbally respond (**Allegation A: Force**, § 87(2)(g)). PO Greaige then walked toward § 87(2)(b) and pushed him for a second time (**Allegation B: Force**, § 87(2)(g)). PO Greaige, PO Moynihan, PO Boyce, and PO Bernard took § 87(2)(b) to the ground and repeatedly punched and kicked § 87(2)(b) in his head, ribs, and stomach (**Allegation C-F: Force**, § 87(2)(g)). While on the ground, an unknown officer knelt and struck § 87(2)(b) on his head (**Allegation G: Force**, § 87(2)(g)). § 87(2)(b) was placed into handcuffs and stood up, after which an additional unknown officer punched him in his face and on his back (**Allegation H: Force**, § 87(2)(g)). While § 87(2)(b) was being arrested, PO Rodriguez threatened an individual making a video recording of the arrest with a summons (**Allegation I: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was then transported to the PSA 7 stationhouse by PO Greaige and PO Moynihan. While driving § 87(2)(b) PO Greaige yelled at an unknown pedestrian, "Fucking Minnie Mouse! Fucking Anthony Brown" (**Allegation J: Discourtesy**, § 87(2)(g)).

§ 87(2)(g), § 87(4-b)

§ 87(2)(b) was arrested during this incident for obstruction of governmental administration and for disorderly conduct (Board Review 01). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

The CCRB obtained BWC videos of this incident recorded by PO Greaige (Board Review 03) (Board Review 04), PO Boyce (Board Review 05), PO Joyce (Board Review 06), PO Johnson (Board Review 07), PO Rodriguez (Board Review 08), SGT Marquez (Board Review 09), PO Canale (Board Review 10), and PO Bernard (Board Review 13). The CCRB also obtained a video recording provided by § 87(2)(b) (Board Review 14). Finally, the CCRB obtained surveillance footage of this incident from NYCHA (Board Review 15), which was exported into a viewable format (Board Review 16).

Findings and Recommendations

Allegation (A) Force: At § 87(2)(b) **in the Bronx, Police Officer Brian Greaige used physical force against** § 87(2)(b)

Allegation (B) Force: At § 87(2)(b) **in the Bronx, Police Officer Brian Greaige used physical force against** § 87(2)(b)

Allegation (C) Force: At § 87(2)(b) **in the Bronx, Police Officer Brian Greaige used physical force against** § 87(2)(b)

Allegation (D) Force: At § 87(2)(b) **in the Bronx, Police Officer Christophe Boyce used physical force against** § 87(2)(b)

Allegation (E) Force: At § 87(2)(b) in the Bronx, Police Officer Shawn Moynihan used physical force against § 87(2)(b)

Allegation (F) Force: At § 87(2)(b) in the Bronx, Police Officer Sebastian Bernard used physical force against § 87(2)(b)

Allegation (G) Force: At § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b)

Allegation (H) Force: At § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b)

§ 87(2)(b) testified that (Board Review 17), he approached PO Greaige, who was standing on the sidewalk ahead of him. PO Greaige, who was wearing plainclothes, approached § 87(2)(b) and asked him where he was going. § 87(2)(b) ignored PO Greaige and continued to walk forward, whereupon PO Greaige pushed him in the chest, causing § 87(2)(b) to take several steps backwards, and stated, “Go that way.” § 87(2)(b) then took two steps forward towards PO Greaige and initiated physical contact with him, either pushing PO Greaige on his chest or pushing PO Greaige’s hands away.

Immediately afterwards, a group of officers, including PO Greaige, PO Boyce, PO Moynihan, and PO Bernard, all approached § 87(2)(b). Multiple officers, who § 87(2)(b) could not specify, began punching him on his face, his ribs, and his stomach. Additionally, officers kicked and elbowed § 87(2)(b) around his body. § 87(2)(b) was unable to specify which officers were hitting him, or how many times he was hit. § 87(2)(b) stated that he held his arms in front of his face to protect it, and further stated that he did not physically resist in any other way. § 87(2)(b) then fell to the ground on his stomach, though he did not know what caused him to do so, whereupon an officer who § 87(2)(b) could not describe punched him repeatedly in his left eye. § 87(2)(b) also stated that he was kneed in his head and neck area.

After § 87(2)(b) was placed into handcuffs, he stated that he was stood up by officers, and that multiple unknown officers then punched him in his face and back while his hoodie was over his face, preventing him from seeing or identifying them.

During a subsequent telephone statement with the CCRB (Board Review 18), § 87(2)(b) stated that he was punched between ten and twenty times before being brought to the ground. An officer knelt on the right side of § 87(2)(b) head and another officer knelt on § 87(2)(b) ankle while he was on the ground. After § 87(2)(b) was lifted from the ground, he could not recall how many times he was punched.

§ 87(2)(b) stated that he refused medical treatment while in the custody of PSA 7, and that he obtained medical treatment after being released at § 87(2)(b) in the Bronx for a swollen and black left eye, scratches on his face, a swollen right ankle, and bruising to the left side of his back. § 87(2)(b) did not have any broken bones, did not require any stitches, and did not require any surgery or procedures. However, § 87(2)(b) never provided the CCRB with release forms to obtain medical records of the treatment he received.

During his CCRB interview PO Greaige stated that (Board Review 19), prior to § 87(2)(b) arriving on scene, PO Greaige and a team of anti-crime officers were engaged in a stop of multiple individuals who were observed drinking alcohol from open containers in front of § 87(2)(b) in the Bronx. PO Greaige stated that eight to twelve individuals had been stopped by officers, and that these individuals were standing along the southern side of a cul-de-sac on East 137th Street, east of the intersection with Alexander Avenue. While standing on the western side of this mixed group of officers and stopped individuals, PO Greaige observed § 87(2)(b) approaching from the direction of Alexander Avenue. PO Greaige did not observe any bulges or items on § 87(2)(b) person. PO Greaige told § 87(2)(b) that he would need to go around the group of stopped individuals, but § 87(2)(b) did not appear to listen to PO Greaige. § 87(2)(b) continued to come closer, at which time PO Greaige issued several more verbal warnings, stating that there were too many people present, that the situation had nothing to do with § 87(2)(b) and that § 87(2)(b)

needed to walk around if he wished to go to a development. § 87(2)(b) came within arm's reach of PO Greaige, and then stated he would not go around because he lived at a location inside the housing development. PO Greaige believed that § 87(2)(b) could have crossed to the opposite side of the street and continued into the housing development without any issues.

PO Greaige told § 87(2)(b) three or four times to walk around the group, and then grabbed § 87(2)(b) left shoulder to guide him around the group in a different direction. § 87(2)(b) shrugged his shoulder away from PO Greaige's hand, made several statements that PO Greaige could not recall, and then clenched his right hand into a fist as if he was getting ready to swing at PO Greaige. PO Greaige, who believed that § 87(2)(b) was about to strike him, grabbed § 87(2)(b) by his arm and put him against a fence on the southern side of the sidewalk. In response, § 87(2)(b) tensed his body and flailed his arms. At this point, multiple additional officers, whose identities PO Greaige could not recall, came to assist PO Greaige with § 87(2)(b) and § 87(2)(b) was forcefully taken to the ground.

PO Greaige stated that officers used hand strikes on § 87(2)(b) but PO Greaige did not recall if used any himself. PO Greaige did not recall whether an officer used a knee strike against § 87(2)(b). PO Greaige did not recall whether an officer stepped on or kicked § 87(2)(b). PO Greaige stated that after a few minutes of struggle § 87(2)(b) was placed into handcuffs, and that afterwards § 87(2)(b) was then removed from the scene in a police vehicle without any further use of force.

During PO Moynihan's CCRB interview (Board Review 20), he stated that he overheard PO Greaige telling § 87(2)(b) to go to the other side of the street to avoid police activity. PO Moynihan stated that he was looking away from PO Greaige and § 87(2)(b) at the time of this interaction, and so did not see if § 87(2)(b) attempted to strike PO Greaige. However, shortly after hearing PO Greaige telling § 87(2)(b) to walk around to avoid police activity, PO Moynihan heard what sounded like a struggle, and then turned and saw that PO Greaige and § 87(2)(b) were fighting. PO Moynihan immediately moved to assist PO Greaige and assisted in taking § 87(2)(b) to the ground. PO Moynihan did not recall what force was required to place § 87(2)(b) into custody, and further did not recall what force he used on § 87(2)(b). PO Moynihan did not recall if he used hand strikes on § 87(2)(b) nor if any other officer used hand strikes. PO Moynihan did not recall if any officer struck § 87(2)(b) with a knee during this struggle.

During PO Boyce's CCRB interview (Board Review 21), PO Boyce stated that, after § 87(2)(b) was told that he would need to walk around officers to avoid interfering with police activity, § 87(2)(b) pulled his arm back and attempted to punch PO Greaige. PO Boyce stated that officers then brought § 87(2)(b) to the ground, restrained him, and placed him into handcuffs. PO Boyce stated that he used multiple hand strikes on § 87(2)(b) to overcome his resistance to being arrested, but that he did not recall if those occurred while § 87(2)(b) was standing up or when he was taken to the ground. PO Boyce believed that all his hand strikes were on § 87(2)(b) lower body. PO Boyce stated that, while § 87(2)(b) was on the ground, he kicked and flailed with his legs in what PO Boyce believed to be an attempt to strike officers. § 87(2)(b) also attempted to throw punches while he was being placed into custody, in what PO Boyce believed to be a generalized attempt to harm officers. However, PO Boyce was not struck by § 87(2)(b) and he did not recall § 87(2)(b) striking or injuring any officer during this incident. PO Boyce did not recall seeing any other officer use hand strikes on § 87(2)(b). PO Boyce did not recall any officer kneeing § 87(2)(b). PO Boyce did not recall any officer striking § 87(2)(b) on his upper body, and did not recall § 87(2)(b) being struck in the head by any officer during this incident.

During PO Bernard's CCRB interview (Board Review 22), he stated that he only became aware of § 87(2)(b) presence on scene after officers began to struggle with him. PO Bernard did not recall seeing a forcible takedown used by officers on § 87(2)(b). PO Bernard held at least one of § 87(2)(b) legs down during the arrest, but he did not see if § 87(2)(b) kicked any officer during the process of his arrest. PO Bernard stated that, at a point after § 87(2)(b) was taken to the ground, he punched § 87(2)(b) in the leg. PO Bernard did not believe that he struck § 87(2)(b) in

the leg more than once, and he stated that he did not recall witnessing another officer using a hand strike, a knee strike, or any other strike on § 87(2)(b) during the process of placing him under arrest. PO Bernard did not recall observing any officer strike § 87(2)(b) on his torso or his head.

The CCRB obtained a Threat, Resistance, and Injury (TRI) worksheet, prepared by Deputy Inspector John Potkay in relation to this incident (Board Review 23). The TRI reported that § 87(2)(b) was repeatedly told to disperse, as he was interfering with an active police investigation. § 87(2)(b) then became combative, clenching his fist, flailing his arms, and tensing his body while being arrested. The TRI reports that PO Greaige, PO Moynihan, PO Bernard, and PO Boyce conducted a forcible takedown on § 87(2)(b) and used hand strikes to place him under arrest.

§ 87(2)(b) arrest report from this incident (Board Review 01) stated that § 87(2)(b) was arrested for refusing multiple orders to disperse, and for then acting aggressively towards officers by clenching his fists, flailing his arms, and tensing his body while being arrested.

The CCRB received a video provided by § 87(2)(b) recorded by an unknown civilian, capturing this incident (Board Review 14). Beginning at timecode 0:20, multiple officers can be seen taking down § 87(2)(b) who is not clearly visible under the numerous officers affecting his arrest. An unknown officer can be seen to use a knee strike, but it cannot be seen if that strike connects with § 87(2)(b) or if so where on § 87(2)(b) body it connects. No other clear use of force is captured in this video.

The CCRB obtained BWC footage of this incident from PO Greaige (Board Review 03), showing the initial interaction with § 87(2)(b). At timecode 0:05-0:07, PO Greaige walks past several officers and at least three civilians who stand around the officers and are not a part of the group that the officers stopped. At timecode 0:09, § 87(2)(b) can be seen to approach the group of officers gathered on the southern side of East 137th Street in the Bronx. § 87(2)(b) slows to a stop a few feet away from PO Greaige at timecode 0:16 and appears to look at PO Greaige. § 87(2)(b) does not appear to make any statement. At timecode 0:18, PO Greaige approaches § 87(2)(b) and appears to place his right hand on § 87(2)(b) left shoulder, turning § 87(2)(b) body. At timecode 0:20, PO Greaige appears to shove § 87(2)(b) away from officers to the west on the sidewalk. § 87(2)(b) slows to a stop and turns back towards officers. § 87(2)(b) does not appear to say anything or make any movements. § 87(2)(b) hands are at his side at timecode 0:23 and are not clenched into fists: only the fingers are slightly curled but not in a fist, as shown by the fact that once can see the spaces between § 87(2)(b) fingers. PO Greaige rapidly walks towards § 87(2)(b) and again grabs and pushes § 87(2)(b) at the shoulders. § 87(2)(b) appears to reach up his arms in response, and multiple officers rapidly approach and grab § 87(2)(b). However, the actions taken by specific officers are not captured. The video then suddenly ends at timecode 0:33.

When presented with this BWC video, PO Greaige stated that he had already told § 87(2)(b) to walk around once or twice prior to this video recording beginning.

The CCRB also obtained BWC footage recorded by PO John Joyce (Board Review 06) which partially captured the use of force by officers during this incident. At timecode 0:05, PO Joyce appears to run towards a group of officers that are in the process of arresting § 87(2)(b). § 87(2)(b) appears to be taken to the ground such that he is face-down, but the exact actions § 87(2)(b) and the officers take are unclear due to the poor video image quality due to the number of officers present and PO Joyce's movements during the arrest.

PO Johnson's BWC footage (Board Review 07) begins as PO Johnson picks his BWC up from the ground after the conclusion to the struggle with § 87(2)(b). Though PO Rodriguez's BWC video (Board Review 08) appears to begin while officers are still struggling with § 87(2)(b) on the ground, PO Rodriguez first faces away from the struggle and then walks away from it, capturing only a few moments of the struggle and not capturing any knee, hand, or foot strikes to § 87(2)(b) head or neck area, nor any strike after § 87(2)(b) was placed into handcuffs. No other BWC video capturing the use of force during this incident was identified by the CCRB. As discussed in detail under **Allegation K-T**, no officer properly recorded BWC of this incident.

The CCRB also obtained surveillance footage of this incident (Board Review 15) and

exported the relevant footage in a playable format (Board Review 16). Beginning at timecode 11:07, § 87(2)(b) can be seen to walk into frame and move towards the officers. § 87(2)(b) walks directly up to the group of officers, stopping in front of PO Greaige at timecode 11:20. PO Greaige appears to turn and push § 87(2)(b) who takes a few steps backwards before turning back towards PO Greaige at timecode 11:25. PO Boyce and PO Greaige then appear to approach § 87(2)(b) though the subsequently interaction cannot be clearly seen due to the quality of the surveillance footage and several bushes between the surveillance camera and the sidewalk on the southern sidewalk of East 137th Street. PO Greaige and PO Boyce appear to forcibly take § 87(2)(b) to the ground, whereupon the entirety of § 87(2)(b) arrest, including the positioning of his person and the actions officers take against him, are obscured by a bush. At timecode 12:45 officers appear to lift § 87(2)(b) off of the ground, and he is stood against a fence on the sidewalk off of East 137th Street. Though officers appear to hold § 87(2)(b) by his hoodie, no strike is observed from timecode 12:45 until timecode 16:45, when § 87(2)(b) is placed into an unmarked police vehicle for removal from the scene.

NYPD Patrol Guide Procedure 221-01 (Board Review 25) states that officers may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise to protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force is reasonable, members are instructed to consider numerous factors, including the nature and severity of the crime and circumstances, the actions taken by the subject, the immediacy of the perceived threat or harm to the members of the service, actions taken by the subject, and the presence of a hostile crowd or agitators.

§ 87(2)(b) stated that, while attempting to walk past PO Greaige, PO Greaige pushed him back and instructed him to walk around officers. While § 87(2)(b) stated that at this time of this first push he had not yet been instructed to walk around officers, PO Greaige stated that he told § 87(2)(b) to walk around the group of officers and stopped individuals three to four times before pushing § 87(2)(b). While § 87(2)(b) stated that he ignored PO Greaige until PO Greaige pushed him, and that he did not say anything prior to that push, PO Greaige stated that § 87(2)(b) repeatedly replied that he would not go around officers, and that it was only after these statements that PO Greaige pushed him. The CCRB was not able to identify BWC footage with audio of PO Greaige's initial interaction with § 87(2)(b) and PO Greaige's footage does not clearly show whether or not § 87(2)(b) spoke while approaching PO Greaige. However, BWC, officer testimony, and surveillance footage are all consistent in showing that § 87(2)(b) had approached to within a few feet of an active police stop. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Greaige's second engagement with § 87(2)(b) is shown in the BWC footage: § 87(2)(b) stood still after the first push, and within seconds, PO Greaige re-engaged § 87(2)(b) attempting to push him further. Since § 87(2)(b) was not attempting to walk back toward the officers—nor was he given the time to signal any form of compliance or noncompliance, PO Greaige initiated this further use of force of his own volition without any specific prompting by § 87(2)(b). The physical presence of other civilian bystanders standing between the other officers and PO Greaige, who the officers did not engage, shows that there was not an active, urgent safety concern in immediately keeping civilians out of the area aside from the details covered in **Allegation A** with the initial redirection and push. The video footage established that § 87(2)(b) did not clench his fists in an attempt to signal a possible punch and rather stood with his fingers slightly curled, which lessened PO Greaige's necessity of proactive self-defense. Since PO Greaige did not provide § 87(2)(b) any further time to signal compliance or noncompliance with the initial order and push, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) stated that, after he was pushed, he initiated contact with PO Greaige by either pushing PO Greaige on his chest or knocking PO Greaige's hands away. Both PO Greaige and PO Boyce stated that § 87(2)(b) curled his hand in a fist and attempted to strike PO Greaige. PO Greaige's BWC does not clearly capture whether § 87(2)(b) attempts to strike or push PO Greaige, though § 87(2)(b) clearly squares his shoulders and stands his ground as PO Greaige approaches him after the initial push. Given that both the account of § 87(2)(b) and the accounts of PO Greaige and PO Boyce have § 87(2)(b) initiating further physical contact with officers following the push covered in **Allegation A**, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that officers he could not identify punched and kned him in his head and neck area, and further alleged that he was struck in the head and on his back repeatedly after being placed into handcuffs. However, no officer had any recollection of such strikes occurring. Though the investigation identified BWC, surveillance, and civilian footage of this incident, extensive portions of the use of force were not clearly captured in any video, including the majority of officers' struggle with § 87(2)(b) on the ground. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (I) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Kelvis Rodriguez threatened to issue summons to an individual.

In a video of this incident provided by § 87(2)(b) recorded by an unknown individual (Board Review 14), PO Rodriguez threatens that unknown individual with a summons. At timecode 0:36, PO Rodriguez tells the individual, who appears to be standing in East 137th Street in the Bronx while recording § 87(2)(b) arrest, "Ma'am, go to the sidewalk! Go all the way to the § 87(2)(b). At timecode 0:46, PO Rodriguez states, "Ma'am, go to the sidewalk! For the second time! You're entitled to a summons – you're entitled right now to a summons! You are entitled to a summons!"

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation (J) Discourtesy: En route to the PSA 7 stationhouse, Police Officer Brian Greaige spoke discourteously to an individual.

PO Moynihan's BWC footage captures a discourteous statement made by PO Greaige to an unknown pedestrian (Board Review 12). At timecode 3:35, as PO Moynihan is sitting in the backseat of a police vehicle transporting § 87(2)(b) from the scene of this incident, PO Greaige is heard to state, "Keep it moving Minnie Mouse! Fucking Minnie Mouse! Fucking Anthony Brown." § 87(2)(b) did not raise this allegation during his CCRB interview.

During PO Greaige's CCRB interview, he stated that he did not transport § 87(2)(b) back to the PSA 7 stationhouse.

However, multiple videos capture that PO Greaige drove the vehicle that took § 87(2)(b) from East 137th Street to the PSA 7 stationhouse. The surveillance footage of this incident (Board Review 15) (Board Review 16), at timecode 16:40, captures PO Greaige escorting § 87(2)(b) to the unmarked police vehicle that took him off scene. At timecode 18:22, PO Greaige enters the driver's seat of the vehicle and drives away from the scene. PO Moynihan's BWC footage also captures PO Greaige (Board Review 12) sitting in the driver's seat of the vehicle as PO Moynihan, who was sitting on the rear driver's side, exits the vehicle at timecode 5:22.

During PO Moynihan's CCRB interview, when presented with his BWC footage, he stated that, though he heard a voice stating, "Keep it moving Minnie Mouse! Fucking Minnie Mouse!" he had no recollection of anyone making that statement. PO Moynihan believed that he was not the one who made that statement.

A comparison of PO Moynihan's BWC footage and PO Greaige's interview audio showed that the voice captured stating, "Fucking Minnie Mouse! Fucking Anthony Brown," had the same sound and intonation as PO Greaige's voice, and thus, this allegation was pled to PO Greaige.

As per Patrol Guide Procedure 200-02 (Board Review 27), the values of the NYPD include the pledge to maintain a higher standard of integrity than is generally expected of others and to respect the dignity of each individual and render their services with courtesy and civility.

Though officers are generally held to a higher standard of etiquette, the NYPD's disciplinary decisions have found that otherwise discourteous statements that are made in the context of stressful or dangerous law enforcement activities do not rise to the level of actionable misconduct. NYPD Disciplinary Case No. 2013-10143 (Board Review 28). However, as discussed in Disciplinary Case Number 2017-17005 (Board Review 29), the NYPD has circumscribed that exception as officers have a duty to behave in a courteous and professional manner. The NYPD held that, though a chaotic situation in which there is an immediate need to maintain order can override that duty, that exception should not overcome that duty.

During this incident, PO Greaige appears to have been cursing at an unidentified pedestrian.

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Lieutenant Dym has been a member of service for 18 years and has been a subject in 29 previous CCRB complaints with 130 allegations, of which 59 were substantiated.
 - 201114190 involved a substantiated allegation of a stop against Lieutenant Dym. The Board recommended command discipline and the NYPD imposed no discipline.
 - 201804541 involved a substantiated allegation of discourtesy word against Lieutenant Dym. The Board recommended command discipline and the NYPD imposed instructions.
 - 201809228 involved a substantiated allegation of physical force against Lieutenant Dym. The Board recommended charges.
 - 201810625 involved substantiated allegations of property damage and discourtesy action against Lieutenant Dym. The Board recommended formalized training and the NYPD imposed command level instructions.
 - 201900061 involved a substantiated allegation of entry of premises against Lieutenant Dym. The Board recommended command level instructions and the NYPD imposed formalized training.
 - 201902457 involved substantiated allegations physical force, restricted breathing, body cavity searches, stop, and strip-search, and failure to document a strip search against Lieutenant Dym. The Board recommended charges.
 - 201903682 involved substantiated allegations of interference with recording and retaliatory summons against Lieutenant Dym. The Board recommended command discipline and the NYPD imposed command discipline.
 - 201908117 involved four substantiated allegations of gun pointed, three of physical force, two of entry of premises, one of failure to provide a Right to Know Act card, three of other

- abuse of authority, one of damaged property, five of discourtesy word, one of false official statement, one of misleading official statement, § 87(2)(g), § 87(4-b) and one other possible misconduct, all against Lieutenant Dym. The Board recommended charges.
- 202001652 involved three substantiated allegations of other abuse, three of threat of arrest, two of threat to damage or seize property, two of vehicle stop, and one of failure to prepare a memo book entry, all against Lieutenant Dym. The Board recommended charges.
 - 202002258 involved substantiated allegations of frisk and threat of summons against Lieutenant Dym. The Board recommended charges.
 - 202003429 involved two substantiated allegations of physical force, one of restricted breathing, two of other abuse of authority, and one of vehicle stop, all against Lieutenant Dym. The Board recommended charges.
 - § 87(2)(g)
- SGT Marquez has been a member of service for 9 years and has been a subject in four previous cases and twelve allegations, of which one was substantiated.
 - 201905840 involved a substantiated allegation of refusal to process a civilian complaint against SGT Marquez. The Board recommended formalized training and the NYPD imposed instructions.
 - § 87(2)(g), § 87(4-b)
 - SGT Batista has been a member of service for 21 years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated. § 87(2)(g)
 - PO Greaige has been a member of service for six years and has been a subject in seven cases with 29 allegations, of which three were substantiated.
 - 201905840 involved a substantiated allegation of physical force against PO Greaige. The CCRB recommended command discipline, and the NYPD imposed command discipline.
 - 201908117 involved a substantiated allegation of failure to provide a RTKA card and improper use of a BWC against PO Greaige. The CCRB recommended command discipline, and the NYPD has yet to impose discipline.
 - 202006197 involved substantiated allegations of physical force and of other possible misconduct against PO Greaige. The CCRB recommended command discipline, and the NYPD imposed command discipline.
 - PO Boyce has been a member of service for six years and has been a subject in five CCRB cases with 14 allegations, of which one was substantiated.
 - § 87(2)(g), § 87(4-b)
 - § 87(2)(g)
 - 202003429 involved a substantiated allegation of discourtesy word against PO Boyce. The Board recommended command discipline, and the NYPD has yet to impose discipline.
 - PO Moynihan has been a member of service for nine years and has been a subject in 16 cases with 56 allegations, of which four were substantiated.
 - 201806669 involved substantiated allegations of property damaged, threat to damage/seize property, and discourtesy word against PO Moynihan. The Board recommended command discipline, and the NYPD imposed command discipline.
 - 201903141 involved a substantiated allegation of discourtesy word against PO Moynihan. The Board recommended instructions, and the NYPD imposed instructions.
 - § 87(2)(g)

- § 87(2)(g) [REDACTED]
- PO Bernard has been a member of service for six years and has been a subject in one previous CCRB case with five charges, one of which was found to be other possible misconduct noted.
 - § 87(2)(g) [REDACTED]
- PO Canale has been a member of service for five years and has been a subject in five previous CCRB cases with 29 allegations, of which nine were substantiated.
 - § 87(2)(g) [REDACTED]
- PO Johnson has been a member of service for four years and has been a subject in four cases and fourteen allegations, of which five were substantiated.
 - 201908117 involved two substantiated allegations of physical force, and one each of false official statement and misleading official statement. § 87(2)(g), § 87(4-b) [REDACTED] The Board recommended charges.
 - 202003381 involved a substantiated allegation of failure to provide a RTKA card against PO Johnson. The Board recommended command discipline, and the NYPD imposed command discipline.
- PO Joyce has been a member of service for five years and has been a subject in seven cases and thirteen total allegations, of which one was substantiated.
 - § 87(2)(g) [REDACTED]
 - § 87(2)(g), § 87(4-b) [REDACTED]
 - 202003429 involved a substantiated allegation of vehicle stop against PO Joyce. The Board recommended command discipline, and the NYPD has yet to impose discipline.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of July 15, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (Board Review 34).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad: 14

Investigator: _____ Inv. Mike Miskovski _____
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel June 10,
2022

Signature

Print Title & Name

Date

Reviewer: _____
Signature Print Title & Name Date